

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

WSOU INVESTMENTS, LLC d/b/a
BRAZOS LICENSING AND
DEVELOPMENT,

Plaintiff,

v.

DELL TECHNOLOGIES INC., DELL
INC., AND VMWARE, INC.,

Defendants.

Case No. 6:20-cv-00480-ADA-DTG
Case No. 6:20-cv-00481-ADA-DTG
Case No. 6:20-cv-00486-ADA-DTG

PLAINTIFF'S NOTICE OF APPEAL

Pursuant to 28 U.S.C. § 1295, Fed. R. App. P. 3 and 4, and Fed. Cir. R. 3 and 4, Plaintiff WSOU Investments, LLC d/b/a Brazos Licensing and Development (“Plaintiff”) hereby respectfully appeals to the United States Court of Appeals for the Federal Circuit from the District Court’s February 23, 2023 oral order granting Defendants Dell Technologies Inc., Dell Inc., EMC Corporation, and VMware, Inc.’s (collectively, “Defendants”) oral motion for judgment as a matter of law under Fed. R. Civ. P. 50(a) with respect to no infringement of claim 13 of U.S. Patent No. 7,539,133 (“the ’133 patent”) in the above-captioned cases (Exhibit 1, Trial Transcript Day 3, at 679:24-684:13 (oral motion) and 722:10-20 (oral order); Exhibit 2, D.I. 393¹, Minute Entry), as well as from any and all underlying or related Orders, Opinions, Decisions, and Rulings. In addition, Plaintiff appeals and/or reserves the right to appeal any and all adverse Orders, Opinions, Decisions,

¹ All “D.I. ____” citations refer to Case No. 6:20-cv-00480-ADA-DTG unless otherwise noted.

or Rulings to the extent any of them have been granted orally but are not yet final, including but not limited to:

- The District Court’s forthcoming order on Defendants’ Motion for Judgment as a Matter of Law Under Federal Rule of Civil Procedure 50(a) for no infringement of claim 13 of the ’133 patent, no damages, no standing, and ineligibility of the ’133 patent under 35 U.S.C. § 101 (D.I. 391);
- The District Court’s forthcoming order on Defendants’ Motion to Exclude Certain Portions of Roy Weinstein’s Expert Report (D.I. 246 (motion); D.I. 346 (Report and Recommendations; Exhibit 3, Trial Transcript Day 1, at 20:4-10 (oral order overruling all objections to Report and Recommendations));
- The District Court’s forthcoming order on Defendants’ Motion for Summary Judgment of Non-Infringement of U.S. Patent No. 9,164,800 (“the ’800 patent”) (Case No. 6:20-cv-00481, D.I. 244 (motion); D.I. 345 (Report and Recommendations; Exhibit 3, Trial Transcript Day 1, at 20:4-10 (oral order overruling all objections to Report and Recommendations));
- The District Court’s forthcoming order on Defendants’ Motion to Strike Previously Undisclosed Theories of Dr. Stan McClellan, Ph.D. Concerning Infringement of U.S. Patent No. 9,164,800 (Case No. 6:20-cv-00481-ADA-DTG, D.I. 242 (motion); D.I. 345 (Report and Recommendations); Exhibit 3, Trial Transcript Day 1, at 20:4-10 (oral order overruling all objections to Report and Recommendations));
- The District Court’s forthcoming order on Defendants’ oral Rule 56 motion for summary judgment and oral Rule 50 judgment as a matter of law of no infringement and

- no damages for the '800 patent (Exhibit 3, Trial Transcript Day 1, at 127:16-133:22 (oral motions and oral order);
- The District Court's forthcoming order on Defendants' Motion for Summary Judgment of Non-Infringement of U.S. Patent No. 7,092,360 ("the '360 patent") (Case No. 6:20-cv-00486, D.I. 247 (motion); D.I. 345 (Report and Recommendations); Exhibit 3, Trial Transcript Day 1, at 20:4-10 (oral order overruling all objections to Report and Recommendations)); and
 - The District Court's forthcoming order on Defendants' oral Rule 56 motion for summary judgment and oral Rule 50 judgment as a matter of law of no infringement and no damages for the '360 patent (Exhibit 3, Trial Transcript Day 1, at 127:16-133:22 (oral motions and oral order).

Dated: March 24, 2023

RESPECTFULLY SUBMITTED,

/s/ Jonathan K. Waldrop

Jonathan K. Waldrop (CA Bar No. 297903)
(Admitted in this District)
jwaldrop@kasowitz.com
Darcy L. Jones (CA Bar No. 309474)
(Admitted in this District)
djones@kasowitz.com
Marcus A. Barber (CA Bar No. 307361)
(Admitted in this District)
mbarber@kasowitz.com
John W. Downing (CA Bar No. 252850)
(Admitted in this District)
jdowning@kasowitz.com
Heather S. Kim (CA Bar No. 277686)
(Admitted in this District)
hkim@kasowitz.com
ThucMinh Nguyen (CA Bar No. 304382)
(Admitted in this District)
tnguyen@kasowitz.com

Chen Jia (CA Bar No. 281470)
(Admitted in this District)
cjia@kasowitz.com
KASOWITZ BENSON TORRES LLP
333 Twin Dolphin Drive, Suite 200
Redwood Shores, California 94065
Telephone: (650) 453-5170
Facsimile: (650) 453-5171

Paul G. Williams (GA Bar No. 764925)
(Admitted in this District)
pwilliams@kasowitz.com
KASOWITZ BENSON TORRES LLP
1230 Peachtree Street N.E., Suite 2445
Atlanta, Georgia 30309
Telephone: (404) 260-6080
Facsimile: (404) 260-6081
Hershy Stern (NY Bar No. 4631024)
(Admitted *pro hac vice*)
hstern@kasowitz.com
Howard L. Bressler (NY Bar No. 2487379)
(Admitted *pro hac vice*)
hbressler@kasowitz.com
Joshua A. Whitehill (NY Bar No. 4766473)
(Admitted *pro hac vice*)
jwhitehill@kasowitz.com
Julianne Laporte (NY Bar No. 5547906)
(Admitted *pro hac vice*)
jlaporte@kasowitz.com
Noah P. Dorman (DC Bar No. 1779821)
(Admitted *pro hac vice*)
ndorman@kasowitz.com
KASOWITZ BENSON TORRES LLP
1633 Broadway
New York, NY 10019
Telephone: (212) 506-1700
Facsimile: (212) 506-1800

Mark D. Siegmund (TX Bar No. 24117055)
msiegmund@cjsjlaw.com
Craig D. Cherry (TX Bar No. 24012419)
ccherry@cjsjlaw.com
Gregory P. Love (TX Bar No. 24013060)
glove@cjsjlaw.com
Justin W. Allen (TX Bar No. 24081977)
justin@cjsjlaw.com

Melissa S. Ruiz (TX Bar No. 24128097)
mruiz@cjsjlaw.com
CHERRY JOHNSON SIEGMUND
JAMES PLLC
The Roosevelt Tower
400 Austin Avenue, 9th Floor
Waco, Texas 76701
Telephone: (254) 732-2242

Scott R. Maynard (CA Bar No. 224932)
scottm@rade.solutions
RADE, LLC
30 N. Gould Street, Suite 2767
Sheridan, WY 82801
Telephone: (949) 885-6084

Attorneys for Plaintiff
WSOU INVESTMENTS, LLC d/b/a
BRAZOS LICENSING AND
DEVELOPMENT

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing instrument was served or delivered electronically to all counsel of record, on this 24th day of March, 2023, via the Court's CM/ECF System.

/s/ Jonathan K. Waldrop

Jonathan K. Waldrop